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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,146

12/07/2004

Thierry Bredy

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10/13/2006

OLIFF & BERRIDGE, PLC

P.O. BOX 19928

ALEXANDRIA, VA 22320

EXAMINER

GREGORY, BERNARR E

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/517,146

Applicant(s)

BREDY, THIERRY

Examiner

Bernarr E. Gregory

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3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 1 is indefinite and unclear in that the claim is presented as being directed to a process to correct the trajectory of a "projectile" but lines 3 and 4 of claim 1 mention "thrust." In the ordinary use of the word "projectile," the word refers to an object that is placed into a trajectory by an external force and that remains in motion due purely to inertia (since the projectile has not onboard source of propulsion or thrust). If claim 1 is truly directed to a "projectile," then the references to "thrust" on lines 3 and 4 of claim 1 make no sense in context.

On line 3 of claim 1, "the correction" lacks antecedent basis in that as a singular noun it cannot take the potentially plural "at least one correction" on line 2 of claim 1 as antecedent.

Throughout claims 1-19, each and every use of the pronouns "it" and "its" lacks clear antecedent basis.

In dependent claim 7, "the section releasable on trajectory" lacks antecedent basis.

On line 2 of dependent claim 11, the phrase "mounted able to slide" is unclear in context.

On line 2 of dependent claim 15, the phrase "mounted able to slide" is unclear in context.

Dependent claims 6-19 are indefinite and unclear in that they are presented as apparatus claims, but they depend from method claims 1-5. It is unclear how apparatus claims can further limit method claims.

Dependent claims 2-19 are unclear in that they depend from unclear independent claim 1.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Maudal et al ('357).

Independent method claim 1 is fully met by Maudal et al ('357) in that Maudal et al ('357) plainly shows a portion of a projectile (item 40 of Figure 2) that is kept within the projectile (see Figure 2A), and then is deployed (see Figure 2). This deploying changes the length of the projectile as claimed in claim 1. Further, when the steering rod (item 40 of Figure 2) of Maudal et al ('357) is moved as shown in Figure 2 to different angles with respect to the major axis of the projectile, the length of the projectile along the major axis changes. For example, in Figure 2, the measured length of the projectile along the major axis

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is different in comparing the straight position of the steering rod (item 40 of Figure 2) illustrated as compared to positions 48 and 50. Please particularly note column 3 of Maudal et al ('357). The claim 1 "control means" are met by the use of circuitry to generate a "control current" as discussed at column 3, lines 40-68 of Maudal et al ('357).

The further limitations of dependent claim 2 are met by the initial deploying of steering rod 40 of Maudal et al ('357) from the internal position (Figure 2A) to the deployed, external position (Figure 2).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4, 6, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maudal et al ('357).

One of ordinary skill-in-the-art would be a person having a graduate degree in Engineering with several years of practical experience in building and/or testing guided projectiles.

The further limitations of dependent claim 3 differ from Maudal et al ('357) in stating that the ejected section of the projectile is "at the front part of the projectile," whereas Maudal et al ('357) shows the ejected section (item 40 of Figure 2) as being in the rear portion of the projectile (see Figure 2A) before

deployment. It would have been obvious to one of ordinary skill-in-the-art that the Maudal et al ('357) steering rod could be kept in any portion of the interior of the projectile before deployment as would be convenient for the placement of other interior features of the projectile. It is noted that Teleszky (U.S. Patent 1,278,786) shows the deployment of a steering rod from a front portion of the projectile. See Figures 1 and 2 of Teleszky ('786). The further limitations of dependent claim 4 are now met by Maudal et al ('357) as modified above in the discussion with respect to claim 3.

With respect to the further limitations of dependent claim 6, insofar as the term "releasable linking means" can be understood in context, it would appear that Maudal et al ('357) does not show these. However, Maudal et al ('357) shows the steering rod (item 40 in Figure 2) going from a fixed internal position in Figure 2A of Maudal et al ('357) to an external position in Figure 2 of Maudal et al ('357). From this fact, it would have been obvious to one of ordinary skill-in-the-art that the Maudal et al ('357) steering rod (item 40 in Figure 2) could be held in the initial internal position by any suitable old and well-known fastening or linking device to hold the steering rod in place at firing until it is time to deploy it, including the claim 4 "releasable linking means."

The arguments with respect to the further limitations of dependent claim 13 are substantially those made with respect to claim 6 above.

The arguments with respect to the further limitations of dependent claim 14 are substantially those made with respect to claim 6 above.

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7. Claims 5, 7-12, and 15-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner-cited prior art herewith that has not been applied above is of general interest for showing the state of the related prior art.

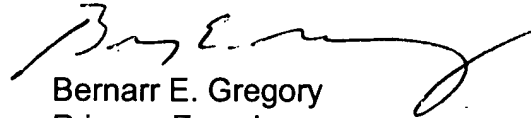
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (571) 272-6972. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bernarr E. Gregory", with a long, sweeping horizontal stroke extending to the right.

Bernarr E. Gregory
Primary Examiner
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